



TAX FACTS

From the
State of Hawaii, Department of Taxation

HAWAII'S FUEL TAX

99-1

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The sale of liquid fuel in Hawaii is subject to a number of different State taxes. This Tax Facts is issued to provide some information on one of these taxes - the Fuel Tax.

1. What is the Hawaii Fuel Tax?

Hawaii's fuel tax is a tax on distributors for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by the distributor in the State. The tax is also imposed on liquid fuel imported by the distributor or acquired by the distributor from persons who are not licensed distributors which is sold or used by the distributor in the State. (Hawaii Revised Statutes section (HRS §) 243-4) The environmental response tax is also a part of Hawaii's fuel tax law. (HRS §243-3.5)

2. Since the fuel tax is imposed on liquid fuel, what is liquid fuel?

Liquid fuel means all liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power including liquefied petroleum gases (LPG), all distillates or and condensates from petroleum, natural gas, coal, coal tar, and vegetable ferments. Distillates and condensates include, but are not limited to, gasoline, naphtha, benzol, benzine, and alcohols. Liquid fuel includes aviation fuel. (HRS §243-1)

3. How much is the fuel tax?

The fuel tax is comprised of three parts, a State component, a county component, and the environmental response tax.

The amount of the *State component* is set by legislation and is currently 1 cent per gallon for aviation fuel and off-highway diesel oil and LPG, 11 cents a gallon for on-highway LPG, and 16 cents a gallon for on-highway diesel oil, gasoline and other liquid fuels.

The *county component* varies by county and is set by county ordinance. The rates presently range from 8.8 cents to 16.5 cents per gallon for on-highway diesel oil, gasoline, and other liquid fuels; and from 6 cents to 11 cents per gallon for on-highway LPG. (HRS §243-4)

The *environmental response tax* is 5 cents per barrel (42 U. S. gallons) of petroleum product sold by a distributor to any retail dealer or end user (other than a refiner) of the petroleum product. (HRS §243-3.5)

Whenever the fuel tax rates change, the Department of Taxation issues an announcement showing the current fuel tax rates and sends revised forms to licensed distributors.

4. Who pays the fuel tax?

The fuel tax is imposed on the distributor, who pays the tax and who may pass the tax on to its customer.

5. Who qualifies as a distributor subject to the fuel tax?

The fuel tax law defines distributor to be:

- Every person who refines, manufactures, produces, or compounds liquid fuel in the State, and sells or uses the fuel in the State;
- Every person who imports or causes to be imported into the State any liquid fuel and sells the fuel in the State, whether in the original packages or containers in which it is imported or otherwise, or who imports such fuel for the person's own use in the State;
- Every person who acquires liquid fuel from a person not a licensed distributor and sells or uses the fuel; and
- Every person who acquires liquid fuel from a licensed distributor as a wholesaler thereof and sells or uses the fuel. (HRS §243-1)

6. Must the distributor register and be licensed?

Yes, Hawaii's Fuel Tax Law requires that distributors be licensed. (HRS §243-2)

Distributors must complete Form BB-1, State of Hawaii Basic Business Application, and indicate (check the box) on the application for a liquid fuel distributor's license. This license is valid until it is revoked. There is no license fee for the liquid fuel distributor's license.

7. Who is considered to be a retail dealer under the fuel tax law?

A retail dealer is a person who purchases liquid

fuel from a licensed distributor, and sells the liquid fuel at retail. Only sales of liquid fuel for consumption or use (not resale) by the purchaser are sales at retail. (HRS §243-1)

8. Must the retail dealer also be registered?

A retail dealer may obtain a liquid fuel retail dealer's permit, but this is not required. A retail dealer's permit may be obtained by checking the liquid fuel retail dealer box on Form BB-1, or on Form BB-1X, State of Hawaii Basic Business Amended Application, and paying the \$5 annual permit fee. The permit is valid for the calendar year and must be renewed every year. The Department of Taxation sends out renewal notices to each registered retail dealer before the end of the year. (HRS §243-3)

9. What happens if a retail dealer does not register and obtain a permit?

If a retail dealer does not obtain a permit, the distributor from which the fuel is purchased cannot get the evaporation allowance for the fuel sold to that retail dealer. This evaporation allowance entitles the distributor to deduct one gallon for each 99 gallons of fuel sold by the retail dealer in computing the distributor's tax liability for the month. This tax savings is passed on by the distributor to the retail dealer. (HRS §243-3 (a))

10. Does a gasoline station that is located on a military base have to obtain a retail dealer permit?

No. A gasoline station on a military base does not have to get a retail dealer's permit. If the permit is not obtained, however, the distributor may not take the evaporation allowance deduction of one gallon for every 99 gallons sold by the station.

11. Does a distributor which operates a gasoline station need to get a retail dealer permit?

No. The distributor's retail sales are the sales reported on the distributor's fuel tax return. Any evaporation which may occur would be reflected in fewer gallons of fuel coming out of the storage tank at the gasoline station than went into the storage tank.

12. Is a car rental company that sells gasoline for their rental cars a retail dealer?

Yes. The car rental company purchases its gasoline from a licensed distributor and sells the gasoline to its customers at retail. It meets the criteria of a retail dealer.

13. How does the distributor know how much fuel the retail dealer sold?

Retail dealers provide the distributor with a Certificate of Retail Sales of Liquid Fuel (Form M-2) which is a report of the number of gallons of various types of liquid fuel sold by the retail dealer during the month. (HRS §243-3(f)) If a retail dealer does not have a permit, this certificate is not valid. (HRS §243-3(a)) The distributor must attach a copy of the Form M-2 received from each retail dealer to the distributor's monthly return.

14. How does the distributor pay the fuel tax?

Distributors file returns and pay fuel taxes monthly. There is no annual fuel tax return to be filed.

Form M-20A is the Monthly Return of Liquid Fuel Tax and Environmental Response Tax. With this form, distributors file:

Form M-23A, Monthly Statement of Petroleum Product Transactions to be Filed by Distributors and Persons Liable to the Same as Distributors;

Form M-26, Monthly Statement of Deductions From the Liquid Fuel Tax; and copies of

Form M-2, Certificate of Retail Sales of Liquid Fuel, received from their customers who are retail dealers.

Other forms may be included as well if appropriate. These include:

Form M-21A, Monthly Return of Liquid Fuel Tax and Environment Response Tax on Fuel Sold for Use in or Used for Certain Water Craft;

Form M-24, Monthly Report of Exempt Liquid Fuel Sales Under the Fuel Tax Law (Chapter 243, HRS) Covering Sales for Use in the County of Kalawao, and Sales to the United States or Other Exempt Instrumentalities for Exclusive Governmental Uses; and

Form M-25, Monthly Report of Liquid Fuel Sales Reported Without Tax Under the Fuel Tax Law (Chapter 243, HRS) Covering Sales to Agencies on Military or Other Reservations, Not for Exclusive Official Use of the United States.

15. This seems like a lot of forms. What is this information used for?

All of these forms are required by law. The information provided on these forms is used to determine the distributor's tax liability and for statistical purposes and for determining the counties' share of the taxes collected.

16. How long must records be kept in case of an audit by the Department of Taxation?

Records must be kept for five years. (HRS §243-9)

17. I am a distributor. I report my sales of fuel as wholesaling on my general excise tax return. Must I pay the general excise tax on the amount I pass on for fuel tax?

No. The amounts collected for state, county, or federal fuel taxes should be shown as a deduction on your general excise tax return. (HRS §237-24(8))

18. Does a distributor or a retail dealer get an evaporation allowance on its general excise tax return?

No, there is no provision to allow an evaporation allowance deduction on the general excise tax return.

19. I am a retail dealer. Must I pay the general excise tax on the amount of fuel taxes included in the sales price of the gasoline I sell?

No. The amounts collected for state, county, or federal fuel taxes should be shown as a deduction on your general excise tax return. (§237-24(8))

20. Are there any exemptions from the tax?

Yes, there are exemptions from the fuel tax. These include:

- Sales to another licensed distributor are not subject to the tax. (HRS §243-7)
- Liquid fuel that is exported or sold to the federal government for official government use is not taxable. (HRS §243-7)
- The tax is not applicable to imports in interstate or foreign commerce as long as the fuel is beyond the taxing power of the State (e.g. in the foreign trade zone or sales of bonded aviation fuel to air carriers coming from or going to foreign ports). (HRS §243-7)
- Taxes on liquid fuel except the 1 cent per gallon on diesel oil and aviation fuel (including gasoline) are not applicable for fuel used for agricultural equipment that does not operate on the public highways of the State. (HRS §243-4(a))
- Taxes on diesel oil, in excess of 1 cent per gallon, are not applicable on diesel oil used to operate motor vehicles in areas other than on the public highways. (HRS §243-4(b))

21. Are sales made through military exchanges, ships stores, or commissaries for personal use subject to the fuel tax?

Yes, although exchanges, ships stores, and commissaries are considered to be instrumentalities of the federal government, the United States Congress has allowed the states to tax the sale of gasoline made through these locations for other than official government use. (23 U.S.C.A. 104)

22. Are sales to the federal, state, or county governments subject to the fuel tax?

Sales of liquid fuel to the federal government, for official government use, are not subject to the tax on liquid fuel. (HRS §234-7) Sales to the state and county governments, however, are subject to the tax.

23. I work with a federal government agency. Our employees buy gasoline for the government cars they use for official business from service stations which include fuel taxes in the price per gallon. How can we get a refund of the tax we are not supposed to pay?

Agencies of the federal government may use line 5 of Form M-36 to claim a refund for fuel taxes and environmental response tax paid on purchases of fuel for official government use.

24. I am a contractor. My company has a job which involves a lot of site preparation work. I will have trucks and other equipment which will be operating only on the job site for extended periods of time. May I get a refund of fuel taxes paid on my fuel purchases?

Yes, if your vehicles and equipment use diesel oil or LPG. If your vehicles and equipment use fuels other than diesel oil and LPG, such as gasoline, no refund is available to you.

You must complete Form M-36, Combined Claim for Refund of Fuel Taxes, to get your refund of fuel taxes paid on diesel oil or LPG in excess of 1 cent per gallon. You must have records to prove your taxed fuel purchases and your off-highway use of the fuel. A log of off-highway and on-highway use may be used for this purpose.

If you purchase your diesel oil or LPG directly from a distributor, you may provide the distributor with an Exemption Certificate, Form M-38. The distributor should not include the fuel taxes in excess of one cent per gallon in the cost to you. If you use some of this fuel on the public highways,

you must file Form M-13 with the Department of Taxation to pay the fuel tax due on this use of fuel.

25. I am a farmer. How do I get a refund of the tax paid on fuel used in my tractor and other agricultural equipment?

Complete Form M-36, Combined Claim for Refund of Fuel Taxes, to get a refund of fuel taxes paid in excess of one cent per gallon. You must have records to prove your taxed fuel purchases and your off-highway use of the fuel.

If you purchase your diesel oil or LPG directly from a distributor, you may provide the distributor with an Exemption Certificate, Form M-38. The distributor should not include the fuel taxes in excess of one cent per gallon in the cost to you. If you use some of this fuel on the public highways, you must file Form M-13 (for diesel) or Form M-22 (for LPG) with the Department of Taxation to pay the fuel tax due on this use of fuel.

26. Why is fuel used on the public highways taxed differently from fuel used off the public highway?

Vehicles which operate on the public highways wear down our streets, roads, and highways. Fuels used on the public highways are taxed differently from fuels not used on public highways because the fuel taxes collected for on-highway use are deposited into the state (or county) highway fund which is used to pay the costs of operation, maintenance, and repair of the state (or county) highway system. (HRS §243-6, §248-8, and §248-9)

27. I am a distributor and I sell aviation fuel to airlines. What liquid fuel tax am I subject to?

You are subject to the fuel tax at the rate of one cent per gallon of gasoline or other aviation fuel sold for use in airplanes unless that fuel is bonded fuel. Bonded fuel is fuel imported under federal customs bond. Customs duties are not paid on this fuel and this fuel can only be sold to aircraft going to or coming from foreign locations.

28. If I pay the fuel tax, must I also pay the environmental response tax?

Yes, the environmental response tax is in addition to any other taxes imposed on the sale of fuel.

29. If I am not a distributor described in question 5, but I sell petroleum products, am I subject to the environmental response tax?

No, the petroleum product must be sold by a distributor for the tax to be imposed - if the product is sold by someone other than the distributor, the tax is not imposed.

30. If I have more questions, who can I ask?

You may call the Taxpayer Services Branch in your district office or you may write to the Department with your questions. Telephone numbers and addresses are listed below.

STATE DISTRICT TAX OFFICE ADDRESSES & TELEPHONE NUMBERS

Oahu District Tax Office
830 Punchbowl Street
Honolulu, HI 96813-5094

Maui District Tax Office
54 South High Street, #208
Wailuku, HI 96793-2198

Hawaii District Tax Office
75 Aupuni Street, #101
Hilo, HI 96720-4245

Kauai District Tax Office
3060 Eiwa Street, #105
Lihue, HI 96766-1889

P. O. Box 259
Honolulu, HI 96809-0259

P. O. Box 1169
Wailuku, HI 96793-6169

P. O. Box 833
Hilo, HI 96721-0833

Telephone No.: 808-587-4242
Jan.-April 20: 808-587-6515
Toll-Free: 1-800-222-3229
TDD/TTY: (808) 587-1418
1-800-887-8974

Telephone No.: 808-984-8500
Forms by Mail
Telephone No.: 808-587-7572
Toll-Free: 1-800-222-7572

Telephone No.: 808-974-6321
Forms by Fax
On Oahu.: 587-7572
All Others: 808-678-0522
(From Your Fax Machine)

Telephone No.: 808-274-3456
Website
<http://www.state.hi.us/tax/tax.html>